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6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
Against:

13 SALLY DIANE TOWNSEND
14 P.O. Box 2239
29 Palms, CA 92277

15 Registered Nurse License No. 445865

16 Respondent.

Case No. 2003-124

OAH No. 2007070451

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

17 **FINDINGS OF FACT**

18 1. On or about June 5, 2007, Complainant Ruth Ann Terry, M.P.H., R.N., in
19 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs, (Board) filed Accusation No. 2003-124 against Sally Diane Townsend
21 (Respondent) before the Board.

22 2. On or about August 31, 1989, the Board issued Registered Nurse License
23 No. 445865 to Respondent. Effective June 14, 2004, the Board in a disciplinary action entitled
24 "In the Matter of the Accusation Against Sally Diane Townsend," Case No. 2003-124, issued a
25 decision, in which Respondent's Registered Nurse License was revoked. However, the
26 revocation was stayed and Respondent's license was placed on probation for a period of three (3)
27 years with certain terms and conditions. A copy of that decision is attached as Exhibit A and
28 incorporated by reference. The Registered Nurse License expires on October 31, 2008.

1 3. On or about June 6, 2007, Henrietta Gaviola, an employee of the
2 Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke
3 Probation, Case No. 2003-124, Statement to Respondent, Notice of Defense, Request for
4 Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's
5 address of record with the Board, which was and is:

6 P.O. Box 2239
7 29 Palms, CA 92277.

8 A copy of the Petition to Revoke Probation, the related documents, and declaration of service are
9 attached as Exhibit A, and is incorporated herein by reference.

10 4. Service of the Petition was effective as a matter of law under the
11 provisions of Government Code section 11505, subdivision (c).

12 5. Respondent filed a Notice of Defense after service upon her of the
13 Petition. The hearing on the merits was set for October 12, 2007, and continued to May, 19,
14 2008.

15 6. On or about February 26, 2008, Henrietta Gaviola, an employee of the
16 Department of Justice, served by Certified and First Class Mail a copy of the Continued Notice
17 of Hearing, in Case No. 2003-124, to Respondent's address of record with the Board, which was
18 and is:

19 P.O. Box 2239
20 29 Palms, CA 92277.

21 A copy of the Continued Notice of Hearing, and declaration of service are attached as Exhibit B,
22 and is incorporated herein by reference. On or about May 19, 2008, Respondent failed to appear
23 at the hearing.

24 7. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at
26 the hearing, the agency may take action based upon the respondent's express
admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent.

27 8. Pursuant to its authority under Government Code section 11520, the Board
28 finds Respondent is in default. The Board will take action without further hearing and, based on

the evidence on file herein, finds that the allegations in Petition No. 2003-124 are true.

9. The total cost for investigation and enforcement in connection with the Petition are \$4,020.50 as of May 19, 2008. Cost recovery shall be pending full upon reinstatement or re-application of a new license.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Sally Diane Townsend has subjected her Registered Nurse License No. 445865 to discipline.

2. A copy of the Petition is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Petition:

GROUND FOR REVOKING PROBATION

5. Grounds exist for revoking probation and reimposing the order of revocation of Respondent's license in that Respondent failed to comply with the following terms of probation:

a. Probation Condition No. 2, Comply with the Board's Probation Program, by failing to fully comply with the terms and conditions of her probation specifically terms and conditions Nos. 5, 6, 10, and 11.

b. Probation Condition No. 5, Submit Written Reports, by failing to submit the Quarterly Report due April 7, 2007.

c. Probation Condition No. 6, Function as a Registered Nurse, by failing to engage in the practice of nursing for a minimum of 24 hours per week for 6 consecutive months.

e. Probation Condition No. 10, Complete a Nursing Course(s), by failing to complete the assigned coursework as required.

f. Probation Condition No. 11, Cost Recovery, by failing to make any payments to the Board. Her balance is \$1,500.00.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 445865, heretofore issued to Respondent Sally Diane Townsend, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on October 10, 2008.

It is so ORDERED September 10, 2008.

LaTranene W Tate

Board of Registered Nursing
Department of Consumer Affairs

TOWN.DEF.WPD
DOJ docket number:LA2007600999

Attachments:

- Exhibit A: Petition to Revoke Probation and related documents; Board Decision in The Matter of the Accusation Against Sally Diane Townsend, Case No. 2003-124;
- Exhibit B: Continued Notice of Hearing and related documents.

EXHIBIT A

**Petition to Revoke Probation and related documents;
Board Decision in The Matter of the Accusation Against Sally Diane Townsend,
Case No. 2003-124**

1 EDMUND G. BROWN JR. Attorney General
of the State of California
2 GLORIA BARRIOS, State Bar No. 94811
Supervising Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2540
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

10 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2003-124

11 SALLY DIANE TOWNSEND
12 P.O. Box 2239
29 Palms, CA 92277

**PETITION TO REVOKE
PROBATION**

13 Registered Nurse License No. 445865

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

- 18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
19 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
20 Registered Nursing, Department of Consumer Affairs (Board).
- 21 2. On or about August 31, 1989, the Board issued Registered Nurse License
22 No. 445865 to Sally Diane Townsend (Respondent). Effective June 14, 2004, the Board of
23 Registered Nursing in a disciplinary action entitled "In the Matter of the Accusation Against
24 Sally Diane Townsend," Case No. 2003-124, issued a decision, in which Respondent's
25 Registered Nurse License was revoked. However, the revocation was stayed and Respondent's
26 license was placed on probation for a period of three (3) years with certain terms and conditions.
27 A copy of that decision is attached as Exhibit A and incorporated by reference. The Registered
28 Nurse License expires on October 31, 2008.

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1 **5. Submit Written Reports.** Respondent, during the period of probation, shall
2 submit or cause to be submitted such written reports/declarations and verification of
3 actions under penalty of perjury, as required by the Board. These reports/declarations
4 shall contain statements relative to Respondent's compliance with all the terms and
5 conditions of the Board's Probation Program. Respondent shall immediately execute all
6 release of information forms as may be required by the Board or its representatives.

7 **6. Function as a Registered Nurse.** Respondent, during the period of probation,
8 shall engage in the practice of registered nursing in California for a minimum of 24 hours
9 per week for 6 consecutive months or as determined by the Board.

10 For purposes of compliance with the section, "engage in the practice of registered
11 nursing" may include, when approved by the Board, volunteer work as a registered nurse.

12 The Board may require that advanced practice nurses engage in advanced practice
13 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined
14 by the Board.

15 If Respondent has not complied with this condition during the probationary term,
16 and Respondent has presented sufficient documentation of his good faith efforts to
17 comply with this condition, and if no conditions have been violated, the Board, in its
18 discretion, may grant an extension of Respondent's probation period up to one year
19 without further hearing in order to comply with this condition.

20 **10. Complete a Nursing Course(s).** Respondent shall comply with the appropriate
21 requirements, as specified in the decision:

22 a) Respondent, at his own expense, shall enroll and successfully complete a
23 course(s) relevant to the practice of registered nursing no later than six months prior to
24 the end of his probationary term; or

25 b) Respondent shall be suspended from the practice of registered nursing, until he
26 has enrolled in and successfully completed a course(s) relevant to the practice of
27 registered nursing.

28 Respondent shall obtain prior approval from the Board before enrolling in the
course(s). Respondent shall submit to the Board the original transcripts or certificates of
completion for the above required course(s). The Board shall return the original
documents to Respondent after photocopying them for its records.

11. Cost Recovery. Respondent shall pay to the Board costs associated with its
investigation and enforcement pursuant to Business and Professions Code section 125.3
in the amount of \$1,500.00. Respondent shall be permitted to pay these costs in a
payment plan approved by the Board, with payments to be completed no later than three
months prior to the end of the probation term.

GROUND FOR REVOKING PROBATION

9. Grounds exist for revoking probation and reimposing the order of
revocation of Respondent's license in that Respondent failed to comply with the following terms
of probation:

a. Probation Condition No. 2, Comply with the Board's Probation Program,
by failing to fully comply with the terms and conditions of her probation specifically terms and
conditions Nos. 5, 6, 10, and 11.

1 b. Probation Condition No. 5, Submit Written Reports, by failing to submit
2 the Quarterly Report due on April 7, 2007.

3 c. Probation Condition No. 6, Function as a Registered Nurse, by failing to
4 engage in the practice of nursing for a minimum of 24 hours per week for 6 consecutive months.

5 d. Probation Condition No. 10, Complete a Nursing Course(s), by failing to
6 complete the assigned coursework as required.

7 e. Probation Condition No. 11, Cost Recovery, by failing to make any
8 payments to the Board. Her balance is \$1,500.00.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


12 1. Revoking the probation that was granted by the Board of Registered
13 Nursing in Case No. 2003-124 and imposing the disciplinary order that was stayed thereby
14 revoking Registered Nurse License No. 445865 issued to Sally Diane Townsend;

15 2. Revoking or suspending Registered Nurse License No. 445865, issued to
16 Sally Diane Townsend;

17 3. Ordering Sally Diane Townsend to pay the Board of Registered Nursing
18 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 125.3;

20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 6/5/07

23
24 
25 RUTH ANN TERRY, M.P.H., R.N.
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California

Complainant

Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2003-124

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SALLY DIANE TOWNSEND
75 511 Sunnysands Drive
29 Palms, California 92277

Registered Nurse License No. 445865

Respondent.

Case No. 2003-124

OAH No. L-2003100437

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 14, 2004.

It is so ORDERED May 14, 2004.

Sandra L. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 RITA LANE MEDELLIN, State Bar No. 171352
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2614
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 SALLY DIANE TOWNSEND
75 511 Sunnysands Drive
14 29 Palms, California 92277

15 Registered Nurse License No. 445865

16 Respondent.

Case No. 2003-124

OAH No. L-2003100437

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Rita
24 Lane Medellin, Deputy Attorney General.

25 2. Sally Diane Townsend (Respondent) is representing herself in this
26 proceeding and has chosen not to exercise her right to be represented by counsel.

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3. On or about August 31, 1989, the Board of Registered Nursing issued Registered Nurse License Number 445865 to Sally Diane Townsend (Respondent). The license will expire on October 31, 2004, unless renewed.

JURISDICTION

4. Accusation No. 2003-124 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 9, 2002. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2003-124 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2003-124. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2003-124.

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9. Respondent agrees that her Registered Nurse license is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

10. Respondent Sally Diane Townsend has never been the subject of any disciplinary action. She is admitting responsibility at an early stage in the proceedings.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

21 13. In consideration of the foregoing admissions and stipulations, the parties
22 agree that the Board may, without further notice or formal proceeding, issue and enter the
23 following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 445865 issued to Respondent Sally Diane Townsend is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1 **Severability Clause.** Each condition of probation contained herein is a separate
2 and distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
7 A full and detailed account of any and all violations of law shall be reported by Respondent to
8 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
9 compliance with this condition, Respondent shall submit completed fingerprint forms and
10 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
11 as part of the licensure application process.

12 **Criminal Court Orders:** If Respondent is under criminal court orders, including
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15 2. **Comply with the Board's Probation Program.** Respondent shall fully
16 comply with the conditions of the Probation Program established by the Board and cooperate
17 with representatives of the Board in its monitoring and investigation of the Respondent's
18 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
19 within no more than 15 days of any address change and shall at all times maintain an active,
20 current license status with the Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully
22 restored.

23 3. **Report in Person.** Respondent, during the period of probation, shall
24 appear in person at interviews/meetings as directed by the Board or its designated
25 representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of
27 residency or practice as a registered nurse outside of California shall not apply toward a reduction
28 of this probation time period. Respondent's probation is tolled, if and when she resides outside

1 of California. Respondent must provide written notice to the Board within 15 days of any change
2 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where she has ever been
5 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
6 provide information regarding the status of each license and any changes in such license status
7 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
8 new nursing license during the term of probation.

9 **5. Submit Written Reports.** Respondent, during the period of probation,
10 shall submit or cause to be submitted such written reports/declarations and verification of actions
11 under penalty of perjury, as required by the Board. These reports/declarations shall contain
12 statements relative to Respondent's compliance with all the conditions of the Board's Probation
13 Program. Respondent shall immediately execute all release of information forms as may be
14 required by the Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency
16 in every state and territory in which she has a registered nurse license.

17 **6. Function as a Registered Nurse.** Respondent, during the period of
18 probation, shall engage in the practice of registered nursing in California for a minimum of 24
19 hours per week for 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered
21 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
22 work in any non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice
24 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
25 Board.

26 If Respondent has not complied with this condition during the probationary term,
27 and Respondent has presented sufficient documentation of her good faith efforts to comply with
28 this condition, and if no other conditions have been violated, the Board, in its discretion, may

1 grant an extension of Respondent's probation period up to one year without further hearing in
2 order to comply with this condition. During the one year extension, all original conditions of
3 probation shall apply.

4 7. **Employment Approval and Reporting Requirements.** Respondent
5 shall obtain prior approval from the Board before commencing or continuing any employment,
6 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
7 performance evaluations and other employment related reports as a registered nurse upon request
8 of the Board.

9 Respondent shall provide a copy of this Decision to her employer and immediate
10 supervisors prior to commencement of any nursing or other health care related employment.

11 In addition to the above, Respondent shall notify the Board in writing within
12 seventy-two (72) hours after she obtains any nursing or other health care related employment.
13 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
14 terminated or separated, regardless of cause, from any nursing, or other health care related
15 employment with a full explanation of the circumstances surrounding the termination or
16 separation.

17 8. **Supervision.** Respondent shall obtain prior approval from the Board
18 regarding Respondent's level of supervision and/or collaboration before commencing or
19 continuing any employment as a registered nurse, or education and training that includes patient
20 care.

21 Respondent shall practice only under the direct supervision of a registered nurse
22 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
23 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
24 are approved.

25 Respondent's level of supervision and/or collaboration may include, but is not
26 limited to the following:

27 (a) Maximum - The individual providing supervision and/or collaboration is
28 present in the patient care area or in any other work setting at all times.

1 (b) Moderate - The individual providing supervision and/or collaboration is in
2 the patient care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration has
4 person-to-person communication with Respondent at least twice during each shift worked.

5 (d) Home Health Care - If Respondent is approved to work in the home health
6 care setting, the individual providing supervision and/or collaboration shall have person-to-
7 person communication with Respondent as required by the Board each work day. Respondent
8 shall maintain telephone or other telecommunication contact with the individual providing
9 supervision and/or collaboration as required by the Board during each work day. The individual
10 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
11 site visits to patients' homes visited by Respondent with or without Respondent present.

12 9. **Employment Limitations.** Respondent shall not work for a nurse's
13 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
14 traveling nurse, or for an in-house nursing pool.

15 Respondent shall not work for a licensed home health agency as a visiting nurse
16 unless the registered nursing supervision and other protections for home visits have been
17 approved by the Board. Respondent shall not work in any other registered nursing occupation
18 where home visits are required.

19 Respondent shall not work in any health care setting as a supervisor of registered
20 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
21 nurses and/or unlicensed assistive personnel on a case-by-case basis.

22 Respondent shall not work as a faculty member in an approved school of nursing
23 or as an instructor in a Board approved continuing education program.

24 Respondent shall work only on a regularly assigned, identified and predetermined
25 worksite(s) and shall not work in a float capacity.

26 If Respondent is working or intends to work in excess of 40 hours per week, the
27 Board may request documentation to determine whether there should be restrictions on the hours
28 of work.

1 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
3 than six months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the
5 course(s). Respondent shall submit to the Board the original transcripts or certificates of
6 completion for the above required course(s). The Board shall return the original documents to
7 Respondent after photocopying them for its records.

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 reduced amount of \$1,500. Once Respondent returns to work, Respondent shall be permitted to
11 pay these costs in a payment plan approved by the Board, with payments to be completed no later
12 than three months prior to the end of the probation term.

13 If Respondent has not complied with this condition during the probationary term,
14 and Respondent has presented sufficient documentation of her good faith efforts to comply with
15 this condition, and if no other conditions have been violated, the Board, in its discretion, may
16 grant an extension of Respondent's probation period up to one year without further hearing in
17 order to comply with this condition. During the one year extension, all original conditions of
18 probation will apply.

19 12. **Violation of Probation.** If Respondent violates the conditions of her
20 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
21 aside the stay order and impose the stayed discipline of revocation of Respondent's license.

22 If during the period of probation, an accusation or petition to revoke probation has
23 been filed against Respondent's license or the Attorney General's Office has been requested to
24 prepare an accusation or petition to revoke probation against Respondent's license, the
25 probationary period shall automatically be extended and shall not expire until the accusation or
26 petition has been acted upon by the Board.

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1 13. **License Surrender.** During Respondent's term of probation, if she ceases
2 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
3 probation, Respondent may surrender her license to the Board. The Board reserves the right to
4 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
5 take any other action deemed appropriate and reasonable under the circumstances, without
6 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
7 will no longer be subject to the conditions of probation.

8 Surrender of Respondent's license shall be considered a disciplinary action and
9 shall become a part of Respondent's license history with the Board. A registered nurse whose
10 license has been surrendered may petition the Board for reinstatement no sooner than the
11 following minimum periods from the effective date of the disciplinary decision:

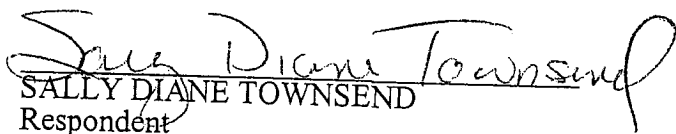
12 (1) Two years for reinstatement of a license that was surrendered for any
13 reason other than a mental or physical illness; or

14 (2) One year for a license surrendered for a mental or physical illness.

15 ACCEPTANCE

16 I have carefully read the Stipulated Settlement and Disciplinary Order. I
17 understand the stipulation and the effect it will have on my Registered Nursing License. I enter
18 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
19 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

20 DATED: 11/11/03.

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23 SALLY DIANE TOWNSEND
24 Respondent
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 11-18-03

BILL LOCKYER, Attorney General
of the State of California


RITA LANE MEDELLIN
Deputy Attorney General

Attorneys for Complainant

DOJ Docket/Matter ID Number: 03579110-SD2001AD1002
80011193.wpd

Exhibit A
Accusation No. 2003-124

1 BILL LOCKYER, Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No. 101336
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266

6 Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2003-124*

13 SALLY DIANE TOWNSEND
aka SALLY DIANE BERTHEOLA
14 aka SALLY DIANE STEINER
75 511 Sunnysands Drive
15 Twenty-Nine Palms, California 92277

ACCUSATION

16 - and -

17 P.O. Box 2239
Twenty-Nine Palms, California 92277

18 Registered Nurse License No. 445865

19
20 Respondent.

21
22 Complainant alleges:

23 **PARTIES**

- 24 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
25 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
26 Department of Consumer Affairs.
- 27 2. On or about August 31, 1989, the Board of Registered Nursing issued
28 registered nurse license number 445865 to Sally Diane Townsend also known as Sally Diane

1 Bertheola and Sally Diane Steiner ("Respondent"). The license was in full force and effect at all
2 times relevant to the charges brought herein. The license will expire on October 31, 2004, unless
3 renewed.

4 5 STATUTORY PROVISIONS

6 3. Section 2750 of the Business and Professions Code ("Code") provides, in
7 pertinent part, that the Board may discipline any licensee, including a licensee holding a
8 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
9 2750) of the Nursing Practice Act.

10 4. Section 2764 of the Code provides, in pertinent part, that the expiration of
11 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
12 against the licensee or to render a decision imposing discipline on the license.

13 5. Section 2761 of the Code states:

14 "The Board may take disciplinary action against a certified or
15 licensed nurse or deny an application for a certificate or license for any of the
16 following:

17 "(a) Unprofessional conduct, which includes, but is not limited to,
18 the following:

19 "...

20 "(f) Conviction of a felony or of any offense substantially related
21 to the qualifications, functions, and duties of a registered nurse, in which event the
22 record of the conviction shall be conclusive evidence thereof."

23 6. Section 125.3 of the Code provides, in pertinent part, that the Board may
24 request the administrative law judge to direct a licensee found to have committed a violation or
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
26 and enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of a Substantially Related Offense)

3 7. Respondent has subjected her Registered Nurse License to disciplinary
4 action under Code sections 2761, subdivisions (a) and (f) in that Respondent has been convicted
5 of a crime which is substantially related to the qualifications, functions and duties of a registered
6 nurse. The circumstances are as follows:

7 a. On or about January 11, 2000, in San Bernardino County Superior
8 Court, Case No. FMB03540, entitled *People v. Sally D. Townsend, et al.*, Respondent was
9 convicted by the court on her plea of guilty to violating Penal Code section 135 (willful
10 destruction of evidence with the intent to prevent it from being produced in an investigation), a
11 misdemeanor.

12 b. The circumstances of the crime are that in March 1998,
13 Respondent destroyed patient medical records of two patients who were residents of Moyles
14 Hi-Desert Convalescent Hospital, where Respondent was employed as a nurse. While the State
15 Department of Health Services (DHS) was performing a review of Moyles Hi-Desert
16 Convalescent Hospital, Respondent destroyed the patients' records to prevent DHS from
17 becoming aware of a March 3, 1998 altercation between two patients/residents of Moyles, in
18 which the residents had sustained injuries.

19 SECOND CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct)

21 8. Respondent has subjected her license to disciplinary action under Code
22 section 2761, subdiv. (a) on the grounds of unprofessional conduct based upon the facts and
23 circumstances set forth in the First Cause for Discipline.

24 PRAYER


25 WHEREFORE, Complainant requests that a hearing be held on the matters herein
26 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

27 1. Revoking or suspending registered nurse license number 445865, issued to
28 Sally Diane Townsend also known as Sally Diane Bertheola and Sally Diane Steiner.

1 2. Ordering Sally Diane Townsend also known as Sally Diane Bertheola and
2 Sally Diane Steiner, to pay the Board of Registered Nursing the reasonable costs of the
3 investigation and enforcement of this case, pursuant to Business and Professions Code section
4 125.3.

5 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: 11/21/02
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9 
10 RUTH ANN TERRY, M.P.H., R.N.
11 Executive Officer
12 Board of Registered Nursing
13 Department of Consumer Affairs
14 State of California
15 Complainant
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